

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARTIN J. WALSH,
SECRETARY OF LABOR,
U.S. DEPARTMENT OF LABOR,

Plaintiff,

v.

PACKERS SANITATION SERVICES,
INC., LTD.

Defendant.

CIVIL ACTION FILE
NO. 22-cv-03246-JMG-SMB

DECLARATION OF GUADALUPE MONTES

I, Guadalupe Montes, declare under penalty of perjury, as prescribed in 28 U.S.C. § 1746, that the following is true and correct:

1. I am an investigator for the United States Department of Labor, Wage and Hour Division's Wichita District Office. I am an investigator assigned to assist with the investigation into the Defendant's compliance with the child labor provisions of the Fair Labor Standards Act ("FLSA").

2. I have been an investigator with the Wage and Hour Division for eight years. I have conducted approximately 150 investigations as the lead investigator and assisted on approximately thirty additional cases.

3. The statements made herein are based on my training and experience, my personal knowledge, my observations made during the execution of the warrant involving Defendant (as discussed below), records reviewed, and conversations with representatives and employees of the Defendant in this matter.

4. Packers Sanitation Services, Inc., Ltd., which may also operate as or do business as Packers Sanitation Services, LLC, (“PSSI”) is a cleaning and sanitation company that provides contract work at meat processing facilities. The PSSI store front location at 2613 S. Limit Avenue, Sedalia, Missouri 65301, is a workplace where PSSI recruits and signs up employees to work for PSSI at a meat processing facility located at 19571 Whitfield Road, Sedalia, Missouri 65301. The meat processing facility is owned and/or operated by Tyson Foods, Inc. or one of its affiliates (“Tyson”).

Pre-Warrant Surveillance

5. Wage and Hour’s internal policies permit and encourage surveillance where it would otherwise be difficult to obtain information through other means, such as in trying to determine hours worked by employees or any child labor activity. Often in such instances, evidence may best be obtained through surveillance activities.

6. On September 29, 2022, I conducted surveillance of PSSI’s storefront location at 2613 S. Limit Ave. in Sedalia, Missouri. I observed a sign by the road stating that PSSI was now hiring. There was a second sign as you approach the storefront, also stating PSSI is hiring. The storefront is located in the basement of the building. Upon entering the storefront, there was a small table to my left and a desk directly in front of me. The person who greeted me as I entered the storefront was named Jaimie Miller. I believe there was another person in the back of the office at a desk who appeared to be of Hispanic descent. The small office had a few boxes on the floor and some filing cabinets. The office was empty other than that. The table to my left had a laptop computer on it. There was a small room to my right that had cleaning products and clear backpacks. I observed similar

clear backpacks used by PSSI employees the night before while conducting surveillance of the plant.

7. I inquired about the hiring sign and asked what the work involved. Ms. Miller stated it was for the entry-level position cleaning the local Tyson plant in Sedalia. Ms. Miller explained that shifts were from 11:30 p.m. to 7:30 a.m., 12:00 a.m. to 8:00 a.m., and 12:30 a.m. to 8:30 a.m. The demand for workers was for entry-level cleaning crew members for the shift of 12:00 a.m. to 8:00 a.m. She told me prospective employees are to be comfortable with handling high-pressure washers and working around heavy equipment that must be locked-out so no injuries occur while cleaning. Employees are also to be comfortable working with cleaning chemicals. She said training or experience is not needed since entry-level prospects will be trained on-site. When I asked about how the application process worked, Ms. Miller said that all applicants had to fill-out the application online and no paper copies were available. When I asked what happened if a person did not know how to speak English or use a computer, she stated she would take care of assisting potential employees. If they did not have documentation, then she would also work something out to help them, but all applications were to be done online.

Execution of the Warrant

8. Wage and Hour obtained warrants from U.S. Magistrate Judge Jill A. Morris in the Western District of Missouri authorizing Wage and Hour to inspect and enter PSSI's storefront facility at 2613 S. Limit Avenue, Sedalia, Missouri, 65301, and the Tyson facility located at 19571 Whitfield Road, Sedalia, Missouri 65301, and "to make an inspection and investigation into violations of the [FLSA], including child labor violations[]" including, but not limited to, "pay and time records of PSSI workers and/or

employees, identification documents and records reflecting the age of workers and employees of PSSI, tax records, PSSI corporate records, surveillance videos, and other records or documents as the investigators may deem necessary or appropriate to determine whether any person has violated any provision of the FLSA.” The warrant also allowed for “questioning privately any employee or agent of PSSI or Tyson Foods, Inc., and the taking of photographs and videos.”

9. On October 13, 2022, Wage and Hour executed the warrants on the PSSI storefront and at the Tyson facility during the workers’ shift. I arrived at the Tyson facility around 2:00 a.m. Five other Wage and Hour Investigators accompanied me for the inspection.

Observations at the Tyson Facility

10. During the plant inspection, I met with Site Manager Jose Ramirez, Area Manager Dale Humaen, and Division Manager Emit Daniels. While accompanying PSSI management on the tour, I heard Mr. Ramirez call out over the radio to the employees that he supervised and tell them to stay in the room with their people. He said this in Spanish: “Quédate en sus cuartos con tu gente, y quédate allí hasta que te llame.” Mr. Ramirez also had people calling him on the radio, but I could not make out what they were saying. However, I did hear him instruct the person on the other end of the radio to stay in their rooms until further instructions. When I asked what he meant by “stay in the room”, he stated it just meant the area where they were working. To me, it sounded like more of a holding area rather than an area where they were working.

Additional Information

11. After the execution of the warrant, I continued with my investigation efforts. To that end, I interviewed a current employee at PSSI who did not identify themselves as a minor. That person informed me that that there used to be “young people” in another area working for PSSI at the Tyson facility, but about two weeks after our site visit in October, the interviewee did not “see them anymore.” The PSSI employee did not know the names of the young people.

Executed on this 12/05/2022 day of December, 2022.

GUADALUPE MONTES

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MONTES
Date: 2022.12.05 10:49:44 -06'00'

Guadalupe Montes
Wage and Hour Investigator